

Message

From: Purnima Kochikar [REDACTED]@google.com]
Sent: 12/10/2019 6:33:42 AM
To: Donald Harrison [REDACTED]@google.com]; Lawrence Koh [REDACTED]@google.com]
CC: Tia Arzu [REDACTED]@google.com]
Subject: Re: Fortnite on Google Play

PRIVILEGED

Hi Don,

Here's the brief we pulled together for your call with Epic. This gives you the sequence of events that have transpired between the two companies. You will see two patterns emerge - Tim's strong desire to make Android "more open" and his singular focus on finding ways to distribute his own store on Android at scale. His team proposes many different covert solutions to accomplish these goals. Some rather bizarre - a chat app that installs the launcher that acts as a store, etc.

+Lawrence Koh and I are available tomorrow to address any questions you may have.

Redacted - Privilege

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On Mon, Dec 9, 2019 at 9:20 PM Donald Harrison <[REDACTED]@google.com> wrote:
FYI - it seems that this is really a legal conversation (and that we should draft a response for Hiroshi (or me - but likely Hiroshi) to send.

----- Forwarded message -----

From: Tim Sweeney <[REDACTED]@epicgames.com>
Date: Mon, Dec 9, 2019 at 8:59 PM
Subject: Re: Fortnite on Google Play
To: Hiroshi Lockheimer <[REDACTED]@google.com>
Cc: Jamie Rosenberg <[REDACTED]@google.com>, Canon Pence [REDACTED]@epicgames.com>, Kent Walker <[REDACTED]@google.com>, Donald Harrison <[REDACTED]@google.com>

Mr. Lockheimer,

First of all, Epic Games submitted Fortnite to Google Play around 6:30pm ET today and requests a formal acceptance or rejection of our submission on the basis of terms that Google intends to enforce in the Google Play ecosystem going forward.

Second, please clarify what information from Epic's communications Google shared with Abner Li at 9to5google.com. We need to understand whether our Fortnite plans for Christmas have been compromised.

Third, please explain what basis Google has for claiming that certain discussions between Epic and Apple have not occurred, in the unattributed comments Google made to The Verge, referenced in today's article. Epic's discussions with Apple are highly confidential and we are very concerned, given that we selected Gmail as our cloud email provider, with how Google could possibly make such a claim.

Tim Sweeney

EXHIBIT 5921

CONFIDENTIAL

GOOG-PLAY-002423720

EXHIBIT 5921-001

Epic Games

On Dec 9, 2019, at 11:26 PM, Hiroshi Lockheimer <[REDACTED]@google.com> wrote:

Hi Tim,

Thanks for the note. And *huge* apologies for the delay. A bunch of us have been traveling internationally -- I'm currently in Japan.

We would welcome Epic as a partner in the Play community and have been open and consistent about our expectations for participation in the prior discussions we've had with you and your team.

To the extent you'd like to discuss further, I would like to introduce you to Don (cc'ed), who runs our global partnerships team at Google and would be happy to have a conversation if you have questions or additional thoughts.

Thanks,
Hiroshi

On Tue, Dec 10, 2019, 12:47 AM Tim Sweeney <[REDACTED]@epicgames.com> wrote:

We are astonished that Google executives didn't respond to my private message but instead leaked it to the press. We ask that you confirm which details you shared: just the information in the <https://9to5google.com/2019/12/08/fornite-android-google-play-store/> article, or also our Fortnite plans for Christmas?

At any rate, the writer of the article above asked for Epic's comment, so I responded with the following on-the-record statement:

Epic will be submitting Fortnite to Google Play shortly.

Epic doesn't seek a special exception for ourselves; rather we expect to see a general change to smartphone industry practices in this regard.

We have asked that Google not enforce its publicly stated expectation that products distributed through Google Play use Google's payment service for in-app purchase. We believe this form of tying of a mandatory payment service with a 30% fee is illegal in the case of a distribution platform with over 50% market share.

We note that Google Play's Developer Distribution Agreement (<https://play.google.com/about/developer-distribution-agreement.html>) does not require developers use Google payments. It merely references a number of non-contractual documents asking developers to do so.

Further, Epic operates a major PC storefront and payment service and we do not force developers using our store to use our payment ecosystem.

Anyway, we hope to see a positive and industry-shaping outcome in Google's ultimate decision on our Fortnite submission. The whole world's watching now!

Best Regards,

Tim Sweeney
Epic Games

On Dec 5, 2019, at 6:41 PM, Tim Sweeney <[REDACTED]@epicgames.com> wrote:

Hi all,

Early next week, Epic will submit Fortnite to Google Play using Epic's own payment systems for in-app purchase.

We hope that Google will accept Fortnite and untie the Google Play distribution platform from Google Play In-app Billing, so game developers and payment services can compete on a level playing field with each of Google's own services. Epic is confident that such a release will proceed smoothly and be respectful to Google Play users, as our payment services have processed over \$1,200,000,000 of commerce successfully across PC, Mac, Android, and Web in the service of Fortnite, Unreal Engine, and Epic Games Store titles.

We believe this Christmas season is the perfect time for a Fortnite launch through Google Play. Confidentially, on December 12 we'll announce a live Fortnite Star Wars event in partnership with Disney to debut on December 14, featuring an in-game appearance by director JJ Abrams. It will premier a world-exclusive movie clip from Star Wars: The Rise of Skywalker, and an in-game Millennium Falcon aerial battle:

<EN_Galileo_Teaser_Poster_Art_Update (1).jpg>

<FalconV1.png>

On December 17, Winterfest will debut. For 14 days over the holiday season, players will receive a free daily gift package with unique items, including a Millennium Falcon Glider and two holiday-themed Outfits. We anticipate all-time records in player concurrency and stream viewership with these events.

<Winterfest_Cabin_Interior.png>

The future of smartphones is in open platforms where developers can choose freely among storefronts, in-app payment services, cloud services, and engines. This future is going to come about one way or another. Epic would love to see the future defined by a positive, trend-setting decision by Google in 2019. Throughout the harsh public and private scrutiny that will be directed at commerce-locked digital ecosystems throughout 2020, I hope we can hold up Android and Google Play as a shining example of best practices that uphold the legal obligations of the two dominant companies in the \$70 billion annual app market.


Because of the nature of this discussion, we ask that any discussion on the topic be in email.

Best Regards,

Tim Sweeney
Epic Games

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Purnima Kochikar

Google Play, Apps & Games

@google.com

